

UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ALABAMA
NORTHWESTERN DIVISION

ROCKY JOE MERTENS,)	
)	
Plaintiff,)	
)	
v.)	Case No. 3:17-cv-01747-LSC-JEO
)	
FELIX MOJICA and TIMOTHY)	
BAGGETT,)	
)	
Defendants.)	

MEMORANDUM OPINION

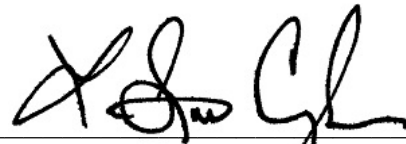
The magistrate judge filed a report on May 23, 2019, construing the defendants' motion for summary judgment as a motion to dismiss and recommending the motion be granted and the claims be dismissed without prejudice pursuant to 42 U.S.C. § 1997e(a) for failing to exhaust administrative remedies. (Doc. 35). In the alternative, the magistrate judge recommended that the defendants' motion for summary judgment be granted and this action be dismissed with prejudice. (*Id.*). Although the parties were advised of their right to file specific written objections within fourteen days, no objections have been received by the court.

Having carefully reviewed and considered *de novo* all the materials in the court file, including the report and recommendation, the magistrate judge's report is hereby **ADOPTED** and the recommendation is **ACCEPTED**. Accordingly, the

defendants' motion to dismiss is due to be granted and the plaintiff's claims are due to be dismissed without prejudice pursuant to 42 U.S.C. § 1997e(a) for failing to exhaust administrative remedies. In the alternative, the defendants' motion for summary judgment is due to be granted on the merits and the plaintiff's claims are due to be dismissed with prejudice.

A separate order will be entered.

DONE AND ORDERED ON JUNE 28, 2019.

A handwritten signature in black ink, appearing to read 'L. Scott Coogler', is written over a horizontal line.

L. SCOTT COOGLER
UNITED STATES DISTRICT JUDGE

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